



CF-007 Reissue

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Reissue Applicants : Stuart A. Fraser et al.
Application No. : 09/859,661 Confirmation No.: 3933
Filed : May 17, 2001
For : AUTOMATED AUCTION PROTOCOL PROCESSOR
For Reissue of
Patent No. : 5,905,974 (Issued May 18, 1999)
Group Art Unit : 3622
Examiner : James W. Myhre

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Sir:

Pursuant to 37 C.F.R. §§ 1.56 and 1.97, applicants hereby make the documents listed in Appendices A, B, and C attached hereto of record in the above-identified patent application.

These documents are listed on the accompanying Form PTO/SB/08 (submitted in duplicate). Copies of all documents other than U.S. patents and published U.S. patent applications are submitted herewith.

LITIGATION DEVELOPMENTS

In a Supplemental Information Disclosure Statement filed October 6, 2003, and in a Fifth Supplemental Information

04/12/2005 SMINASS1 00000063 09859661

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EV 625767894 US

Disclosure Statement filed October 4, 2004, reissue applicants advised the Office of the pendency of a litigation styled eSPEED, Inc. et al. v. BROKERTEC USA, L.L.C. et al., D. Del., Civil Action No. 03-61(KAJ), which involves related U.S. Patent No. 6,560,580 (the "'580 Patent") and in which the Defendants have asserted that certain claims of the '580 Patent are invalid and/or unenforceable by reason of alleged inequitable conduct. Reissue applicants have previously provided the Office with numerous pleadings, motions, briefs, discovery documents and opinions and orders from the litigation involving the '580 Patent.

A trial in the '580 Patent litigation was held on February 7 to February 17, 2005. A jury verdict as to certain issues, including invalidity, was rendered on February 22, 2005. Five invalidity defenses pertaining to claims 20-24 of the '580 Patent were submitted to the jury: anticipation, obviousness, nonjoinder of inventors, misjoinder of inventors and adequacy of written description. The jury returned verdicts for the patentee as to all of these issues except adequacy of written description, upon which it returned a verdict for the Defendants. Both sides have filed motions for judgment as a matter of law which are currently being briefed. Other issues, including inequitable conduct, were reserved to the Court for decision and are currently the subject of post-trial briefing.

The documents in Appendix A include litigation documents relating to the '580 Patent litigation as well as documents produced during discovery in the '580 Patent litigation.

The documents in Appendix B came to the attention of applicants in United States Patent Application No. 09/216,464 (now U.S. Patent 6,850,907), which is a continuation-in-part of

the application that became the patent in reissue. In particular, these documents were cited in a Form PTO-892 mailed by the United States Patent and Trademark Office (USPTO) on March 25, 2004.

The documents in Appendix C came to the attention of applicants in United States Patent Application No. 10/251,717, which is a continuation of a continuation-in-part application of the patent in reissue. In particular, these documents were cited in a Form PTO-892 mailed by the USPTO on May 21, 2004.

With respect to the documents grouped as Litigation Documents in Appendix A, and pursuant to 37 C.F.R. § 1.97(b)(3), applicants/appellants enclose a check for \$180.00 in payment of the fee pursuant to 37 C.F.R. §1.17(p), as required by 37 C.F.R. §1.97(d). Applicants/appellants certify that no item of information concerning documents numbered 1-9 was known to any individual designated in §1.56 more than three months prior to the filing of this Supplemental Information Disclosure Statement.

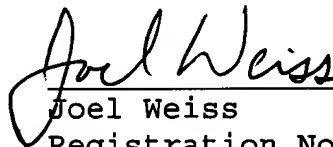
In addition, applicants/appellants respectfully request that the first two documents in Appendix A, grouped as Other Documents, and the documents in Appendices B and C, be reviewed as well. Even though persons associated with applicants/appellants and designated under 37 C.F.R. § 1.56 have known about these documents for at least three months, and, therefore, applicants/appellants cannot request review as a matter of right, nevertheless, because of circumstances associated with the aforementioned trial, it has heretofore been very difficult to prepare a suitable Supplemental Information Disclosure Statement which would have included these documents. Thus, applicants/appellants respectfully request that these documents be considered along with the Litigation Documents in Appendix A.

It is respectfully requested that the documents listed in Appendices A, B, and C be (1) fully considered by the Patent and Trademark Office during examination of this application; and (2) printed on any patent which may issue on this application. Applicants request that a copy of Form PTO/SB/08, as considered and initialed by the Examiner, be returned with the next communication.

The Director is hereby authorized to charge any additional fee that may be due, or credit any overpayment, in connection with this Supplemental Information Disclosure Statement, to Deposit Account No. 06-1075. A duplicate copy of this Supplemental Information Disclosure Statement is enclosed herewith.

Consideration of the foregoing in relation to this patent application is respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, reading "Joel Weiss", is written over a horizontal line.

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APPENDIX A

OTHER DOCUMENTS

Chicago Mercantile Exchange, Globex, 24 pages, undated.

Rumbaugh, J. et al., "Object-Oriented Modeling and Design," pp. 84-91, 1991.

LITIGATION DOCUMENTS

eSpeed, Inc. et al., v. Brokertec USA L.L.C., et al., C.A. No. 03-612 (KAJ), ORDER.

eSpeed, Inc. et al., v. Brokertec USA L.L.C., et al., C.A. No. 03-612 (KAJ), MEMORANDUM ORDER.

eSpeed, Inc. et al., v. Brokertec USA L.L.C., et al., C.A. No. 03-612 (KAJ), OPINION.

eSpeed, Inc. et al., v. Brokertec USA L.L.C., et al., C.A. No. 03-612 (KAJ), PLAINTIFFS' OPENING BRIEF IN SUPPORT OF THEIR PROPOSED CLAIM CONSTRUCTIONS.

eSpeed, Inc. et al., v. Brokertec USA L.L.C., et al., C.A. No. 03-612 (KAJ), PLAINTIFFS' MOTION FOR RE-ARGUMENT ON CLAIM CONSTRUCTIONS.

eSpeed, Inc. et al., v. Brokertec USA L.L.C., et al., C.A. No. 03-612 (KAJ), ANSWER TO PLAINTIFFS' MOTION FOR REARGUMENT ON CLAIM CONSTRUCTION.

eSPEED, Inc. et al. v. BROKERTEC USA, L.L.C. et al., C.A. No. 03-612 (KAJ), VIDEOTAPED DEPOSITION OF HITENDRA MANUBHAI ABUWALA.

1. eSPEED, Inc. et al. v. BROKERTEC USA, L.L.C. et al., C.A. No. 03-612 (KAJ), OPINION AND ORDER RE MOTIONS FOR SUMMARY JUDGEMENT, Oct. 25, 2004.
2. eSPEED, Inc. et al. v. BROKERTEC USA, L.L.C. et al., C.A. No. 03-612 (KAJ), OPINION AND ORDER RE RECONSIDERATION, Jan. 11, 2005.
3. eSPEED, Inc. et al. v. BROKERTEC USA, L.L.C. et al., C.A. No. 03-612 (KAJ), REVISED JOINT PRETRIAL ORDER AND EXHIBITS A-J - PUBLIC VERSION, Jan., 2005.

4. eSPEED, Inc. et al. v. BROKERTEC USA, L.L.C. et al., C.A. No. 03-612 (KAJ), TRIAL TRANSCRIPTS, Feb. 7 - Feb. 22, 2005, (11 Volumes).
5. eSPEED, Inc. et al. v. BROKERTEC USA, L.L.C. et al., C.A. No. 03-612 (KAJ), JURY'S VERDICT SHEET, Feb. 22, 2005.
6. eSPEED, Inc. et al. v. BROKERTEC USA, L.L.C. et al., C.A. No. 03-612 (KAJ), DEFENDANTS' OPENING BRIEF IN SUPPORT OF MOTION FOR JUDGEMENT AS A MATTER OF LAW ON INVALIDITY AND NON-INFRINGEMENT (with Exhibits 1-5), April 4, 2005.
7. eSPEED, Inc. et al. v. BROKERTEC USA, L.L.C. et al., C.A. No. 03-612 (KAJ), MOTION FOR JUDGEMENT AS A MATTER OF LAW ON INVALIDITY AND NON-INFRINGEMENT, April 4, 2005.
8. eSPEED, Inc. et al. v. BROKERTEC USA, L.L.C. et al., C.A. No. 03-612 (KAJ), ORDER, April 4, 2005.
9. eSPEED, Inc. et al. v. BROKERTEC USA, L.L.C. et al., C.A. No. 03-612 (KAJ), DEFENDANTS' PROPOSED FINDINGS OF FACT AND CONCLUSION OF LAW (with Exhibits 1 and 2), April 4, 2005.

eSPEED, Inc. et al. v. BROKERTEC USA, L.L.C. et al., C.A. No. 03-612 (KAJ), VIDEOTAPED DEPOSITION OF KENNETH I. GINSBERG, April 22, 2004.



APPENDIX B

U.S. PATENTS and PUBLICATIONS

White	US2002/0023037	02/21/02
Satow	US2004/0030634	02/12/04

OTHER DOCUMENTS

Clemons, E.K. et al., "Restructuring Institutional Block Trading: An Overview of the OptiMark System," Journal of Management Information Systems," Vol. 15, No. 2, pp. 41-60, Fall 1998.

Graham, G., "UKNEWS: Electronic Trading: Much More a Small Fizz Than a Big Bang," Financial Times, London Edition, p. 9, October 17, 1997.



APPENDIX C

U.S. PATENTS and PUBLICATIONS

May	6,421,653	07/16/02
Keiser et al.	6,505,174	01/07/03
Wilton et al.	6,519,574	02/11/03
Howorka	US2002/0082976	06/27/02



PTO/SB/08A (10-01)

Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANTS (use as many sheets as necessary)				Complete if known	
				Application Number	09/859,661
				Confirmation No.	3933
				Filing Date	May 17, 2001
				First Named Inventor	Stuart A. Fraser et al.
				Art Unit	3633
				Examiner	James W. Myhre
Sheet	1	of	2	Attorney Docket Number	CF-007 Reissue

U.S. PATENT DOCUMENTS					
Examiner initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Documents	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number - Kind Code ² (if known)			
		Appendix B			
		US2002/0023037	02/21/02	White	
		US2004/0030634	02/12/04	Satow	
		Appendix C			
		6,421,653	07/16/02	May	
		6,505,174	01/07/03	Keiser et al.	
		6,519,574	02/11/03	Wilton et al.	
		US2002/0082976	06/27/02	Howorka	

Examiner Signature		Date Considered	
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FOREIGN PATENT DOCUMENTS						
Examiner initials	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Documents	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Country Code ¹ - Number ² - Kind Code ³				

NON PATENT LITERATURE DOCUMENTS			
Examiner initials	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T ⁶
		APPENDIX A	
		Chicago Mercantile Exchange, Globex, 24 pages, undated.	
		Rumbaugh, J. et al., "Object-Oriented Modeling and Design," pp.84-91, 1991.	
		LITIGATION DOCUMENTS	
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		eSpeed, Inc. et al., v. Brokertec USA L.L.C., et al., C.A. No. 03-612 (KAJ), MEMORANDUM ORDER.	
		eSpeed, Inc. et al., v. Brokertec USA L.L.C., et al., C.A. No. 03-612 (KAJ), OPINION.	

* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶ A check mark here if English language translation is attached.Express Mail No.
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Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANTS (use as many sheets as necessary)				Complete if known	
				Application Number	09/859,661
				Confirmation No.	3922
				Filing Date	May 17, 2001
				First Named Inventor	Stuart A. Fraser et al.
				Art Unit	3622
				Examiner	James W. Myhre
				Attorney Docket Number	CF-007 Reissue
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		eSpeed, Inc. et al., v. Brokertec USA L.L.C., et al., C.A. No. 03-612 (KAJ), PLAINTIFFS' OPENING BRIEF IN SUPPORT OF THEIR PROPOSED CLAIM CONSTRUCTIONS.	
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	8	eSPEED, Inc. et al. v. BROKERTEC USA, L.L.C. et al., C.A. No. 03-612 (KAJ), ORDER, April 4, 2005.	
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		eSPEED, Inc. et al. v. BROKERTEC USA, L.L.C. et al., C.A. No. 03-612 (KAJ), VIDEOTAPED DEPOSITION OF KENNETH I. GINSBERG, April 22, 2004.	
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		Clemons, E.K., et al., "Restructuring Institutional Block Trading: An Overview of the OptiMark System," Journal of Management Information Systems," Vol. 15, No. 2, pp. 41-60, Fall 1998.	
		Graham, G., "UKNEWS" Electronic Trading: Much More a Small Fizz Than a Big Bang," Financial Times, London Edition, p. 9, October 17, 1997.	

Examiner Signature		Date Considered	
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